REMARKS

Claims 1-12 are pending in the application. In the final Office Action dated November 14, 2006, the Examiner rejected claims 1-12 under 35 U.S.C. §103(a) as allegedly being unpatentable over *Lehner, et al. ("Lehner")* in view of *Foster, et al. ("Foster")*. Applicant respectfully traverses the rejection and addresses the Examiner's disposition below. Claims 3 and 8 have been amended to clarify the claim language.

Independent claims 1, 6, 11, and 12 each claim subject matter relating to asynchronously receiving a first datatype at a subscriber. It is determined whether the subscriber subscribes to at least one additional datatype after receiving the first datatype. There is a query for the at least one additional datatype responsive to a determination that the subscriber subscribes to the at least one additional datatype.

This is clearly unlike *Lehner* in view of *Foster*. As acknowledged by the Examiner, *Lehner* fails to disclose asynchronously receiving a datatype at a subscriber. The Examiner combines *Lehner* with *Foster* in an attempt to disclose or suggest Applicant's claimed invention, however, *Foster* is not a valid 35 U.S.C. §102 reference.

The present application was filed on October 22, 2003 and claims priority to provisional patent application no. 60/469,767, which was filed on May 12, 2003. Therefore, the present application has an effective filing date of May 12, 2003.

Foster has a publication date of August 14, 2003, which is later that the present application's effective filing date of May 12, 2003. Therefore, *Foster* cannot be used as a prior art reference under 35 U.S.C. §102. Accordingly, *Lehner* in view of *Foster* still fails to disclose or suggest claims 1, 6, 11, and 12.

The Examiner argues that some of Applicant's claimed subject matter is not enabled by priority application no. 60/469,767 ("the '767 application"). Applicant disagrees. Specifically, the Examiner argues that the following claimed subject matter is not enabled: 1) "each data type having a metadata in the first format that describes the respective data instance and a reference in the first format to the respective data instance", 2) "the data instances being maintained separately from the data types", and 3) "a subscriber receiving the published data type responsive to subscribing to the data type of the first format is not required to recognize the format of the data instance." *Office Action of 11/14/2007*, pages 2-3 Applicant notes that the Examiner has read additional limitations into the claims, as evident from the *Office Action* text quoted above. Below, Applicant addresses

5

each of the Examiner's contentions relative to the recited claim language.

Regarding item 1, the '767 application clearly enables the claimed subject matter relating to a datatype including a reference to a data. *See, e.g.,* pages 44 (last paragraph) and 62-68.

Regarding item 2, the '767 application clearly enables the claimed subject matter relating to data being stored separately from a data type. For example, the '767 application describes storing data separately from a data type in the following illustrative passages:

> **A Client can publish zero or more data types. Publishing a data type is the primary form of storage for the IC Bus system. This relationship between publishing and storage is a foundational concept for the IC Bus.** The publishing interface is very simple inside the client module. The publish requests executed by the client almost exactly match the JMS publish request that the client module issues to the JMS server. The main role of the client module in publishing, is to validate the content of the outgoing data type instance against the data type definitions that are cached in the client module upon initialization. **If they match the envelope is published and the envelope and body are stored in the persistent store. The body of the data is supplied through a file or network URL in the publish request.** It is up to the client itself how the data is stored prior to publish, but it must be accessible for successful publication. A publish command can only publish a single instance of a single data type. A client must call publish for every data type instance it wishes to publish to the IC Bus.

> ('767 application at 71)(emphasis added); *See, also,* '767 application at 82-93.

Regarding item 3, it is unclear what the Examiner means as the Examiner does not describe what is claimed. However, Applicant notes that the '767 application clearly enables the claimed subject matter relating to a subscriber determining whether the subscriber subscribes to additional datatypes by identifying a key in the first datatype. *See, e.g.,* pages 62-68 and 107.

Therefore, Applicant submits that all of the claimed subject matter is described and enabled in the '767 application.

Claims 2-5 and 7-10 depend directly or indirectly from claim 1 or 6 and are therefore allowable for at least that same reasons that claims 1 and 6 are allowable.

Applicant respectfully submits the rejection has been overcome and requests that it be withdrawn.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-12 are patentable. It is therefore submitted that the application is in condition for allowance. Notice to that effect is respectfully requested.

Respectfully submitted,

    /Christopher P. Rauch/ (Reg. No. 45,034)
Christopher P. Rauch
SONNENSCHEIN, NATH & ROSENTHAL LLP
P.O. Box #061080
Wacker Drive Station - Sears Tower
Chicago, IL 60606-1080
Telephone 312/876-2606
Customer #58328
Attorneys for Applicant(s)